

Senate File 363

S-3112

1 Amend the amendment, S-3102, to Senate File 363, as
2 follows:

3 1. Page 1, by striking lines 1 through 30 and
4 inserting:

5 <Amend Senate File 363 as follows:

6 1. By striking everything after the enacting clause
7 and inserting:

8 <Section 1. LEGISLATIVE FINDINGS. The general
9 assembly finds that establishing a sound criminal
10 justice and public health policy toward individuals
11 living with a contagious or infectious disease is
12 consistent with an evidence-based approach to disease
13 control that focuses on prevention strategies that
14 include notification of current and previously exposed
15 partners, evidence-based behavioral risk-reduction
16 programming, promotion of voluntary disclosure to
17 sexual and needle-sharing partners, and suppression of
18 viral load through engagement in care and treatment
19 programs.

20 Sec. 2. NEW SECTION. 709D.1 Title.

21 This chapter shall be known and may be cited as the
22 "*Contagious or Infectious Disease Transmission Act*".

23 Sec. 3. NEW SECTION. 709D.2 Definitions.

24 As used in this chapter, unless the context
25 otherwise requires:

26 1. "*Contagious or infectious disease*" means
27 hepatitis in any form, meningococcal disease, AIDS or
28 HIV as defined in section 141A.1, or tuberculosis.

29 2. "*Exposes*" means engaging in conduct that poses
30 a substantial risk of transmission, but does not
31 include conduct posing a low or negligible risk of
32 transmission, consistent with guidance issued by the
33 centers for disease control and prevention of the
34 United States department of health and human services.

35 3. "*Practical means to prevent transmission*" means
36 substantial compliance with a treatment regimen
37 prescribed by a health care provider that measurably
38 limits the risk of transmission of the contagious
39 or infectious disease, substantial compliance with
40 behavioral recommendations of the infected person's
41 health care provider or public health officials to
42 measurably limit the risk of transmission of the
43 contagious or infectious disease, or other methods
44 generally accepted by the medical profession to
45 measurably limit the risk of transmission of the
46 contagious or infectious disease, such as use of
47 a medically indicated respiratory mask or use of a
48 prophylactic device.

49 Sec. 4. NEW SECTION. 709D.3 Criminal transmission
50 of a contagious or infectious disease.

1 1. A person commits a class "C" felony when the
2 person knows the person is infected with a contagious
3 or infectious disease and exposes an uninfected person
4 to the contagious or infectious disease with the intent
5 that the uninfected person contract the contagious or
6 infectious disease, and the conduct results in the
7 uninfected person becoming infected with the contagious
8 or infectious disease. If a person commits a class "C"
9 felony under this subsection, and the person against
10 whom the class "C" felony is committed is pregnant
11 at the time of the exposure, the person exposing the
12 uninfected person to the contagious or infectious
13 disease commits an additional class "C" felony for each
14 unborn child constituting the pregnancy notwithstanding
15 the actual result of the exposure to each unborn child.

16 2. A person commits a class "D" felony when the
17 person knows the person is infected with a contagious
18 or infectious disease and exposes an uninfected person
19 to the contagious or infectious disease with the intent
20 that the uninfected person contract the contagious or
21 infectious disease, but the conduct does not result
22 in the uninfected person becoming infected with the
23 contagious or infectious disease. If a person commits
24 a class "D" felony under this subsection, and the
25 person against whom the class "D" felony is committed
26 is pregnant at the time of the exposure, the person
27 exposing the uninfected person to the contagious or
28 infectious disease commits an additional class "D"
29 felony for each unborn child constituting the pregnancy
30 notwithstanding the actual result of the exposure to
31 each unborn child.

32 3. A person commits an aggravated misdemeanor
33 when the person knows the person is infected with
34 a contagious or infectious disease and exposes an
35 uninfected person to the contagious or infectious
36 disease acting with a reckless disregard as to whether
37 the uninfected person contracts the contagious or
38 infectious disease, and the conduct results in the
39 uninfected person becoming infected with the contagious
40 or infectious disease. If a person commits an
41 aggravated misdemeanor under this subsection, and the
42 person against whom the aggravated misdemeanor is
43 committed is pregnant at the time of the exposure, the
44 person exposing the uninfected person to the contagious
45 or infectious disease commits an additional aggravated
46 misdemeanor for each unborn child constituting the
47 pregnancy notwithstanding the actual result of the
48 exposure to each unborn child.

49 4. A person commits a serious misdemeanor when the
50 person knows the person is infected with a contagious

1 or infectious disease and exposes an uninfected person
2 to the contagious or infectious disease acting with a
3 reckless disregard as to whether the uninfected person
4 contracts the contagious or infectious disease, but
5 the conduct does not result in the uninfected person
6 becoming infected with the contagious or infectious
7 disease. If a person commits a serious misdemeanor
8 under this subsection, and the person against whom
9 the serious misdemeanor is committed is pregnant at
10 the time of the exposure, the person exposing the
11 uninfected person to the contagious or infectious
12 disease commits an additional serious misdemeanor
13 for each unborn child constituting the pregnancy
14 notwithstanding the actual result of the exposure to
15 each unborn child.

16 5. The act of becoming pregnant while infected
17 with a contagious or infectious disease, continuing
18 a pregnancy while infected with a contagious or
19 infectious disease, or declining treatment for a
20 contagious or infectious disease during pregnancy shall
21 not constitute a crime under this chapter.

22 6. Evidence that a person knows the person is
23 infected with a contagious or infectious disease and
24 has engaged in conduct that exposes others to the
25 contagious or infectious disease, regardless of the
26 frequency of the conduct, is insufficient on its own
27 to prove the intent to transmit the contagious or
28 infectious disease.

29 7. A person does not act with the intent required
30 pursuant to subsection 1 or 2, or with the reckless
31 disregard required pursuant to subsection 3 or
32 4, if the person takes practical means to prevent
33 transmission, or if the person informs the uninfected
34 person that the person has a contagious or infectious
35 disease and offers to take practical means to
36 prevent transmission but that offer is rejected by
37 the uninfected person subsequently exposed to the
38 infectious or contagious disease.

39 8. It is an affirmative defense to a charge under
40 this section if the person exposed to the contagious or
41 infectious disease knew that the infected person was
42 infected with the contagious or infectious disease at
43 the time of the exposure and consented to exposure with
44 that knowledge.

45 Sec. 5. Section 141A.3, subsection 2, Code 2013, is
46 amended by adding the following new paragraph:

47 NEW PARAGRAPH. *0e.* Subject to availability
48 of funding, develop and implement a comprehensive
49 prevention program for individuals with HIV that
50 includes engagement and retention in HIV care

1 activities, risk reduction and behavioral prevention
2 programming, partner notification services, case
3 management and other supportive services, and
4 assistance with health insurance coverage or medication
5 costs for low-income individuals.

6 Sec. 6. Section 141A.9, subsection 2, paragraph i,
7 Code 2013, is amended to read as follows:

8 *i.* Pursuant to sections 915.42 and 915.43, to a
9 convicted or alleged sexual assault offender; the
10 physician or other health care provider who orders the
11 test of a convicted or alleged offender; the victim;
12 the parent, guardian, or custodian of the victim if
13 the victim is a minor; the physician of the victim if
14 requested by the victim; the victim counselor or person
15 requested by the victim to provide counseling regarding
16 the HIV-related test and results; the victim's spouse;
17 persons with whom the victim has engaged in vaginal,
18 anal, or oral intercourse subsequent to the sexual
19 assault; members of the victim's family within the
20 third degree of consanguinity; and the county attorney
21 who may use the results as evidence in the prosecution
22 of sexual assault under chapter 915, subchapter V, or
23 prosecution of the offense of criminal transmission
24 of HIV under chapter 709C filed the petition for
25 HIV-related testing under section 915.42. For the
26 purposes of this paragraph, "*victim*" means victim as
27 defined in section 915.40.

28 Sec. 7. Section 692A.101, subsection 1, paragraph
29 a, subparagraph (9), Code 2013, is amended by striking
30 the subparagraph.

31 Sec. 8. Section 692A.102, subsection 1, paragraph
32 c, subparagraph (23), Code 2013, is amended by striking
33 the subparagraph.

34 Sec. 9. Section 915.43, subsections 4 and 5, Code
35 2013, are amended to read as follows:

36 4. Results of a test performed under this
37 subchapter, except as provided in subsection 13,
38 shall be disclosed only to the physician or other
39 practitioner who orders the test of the convicted or
40 alleged offender; the convicted or alleged offender;
41 the victim; the victim counselor or person requested
42 by the victim to provide counseling regarding the
43 HIV-related test and results; the physician of
44 the victim if requested by the victim; the parent,
45 guardian, or custodian of the victim, if the victim is
46 a minor; and the county attorney who filed the petition
47 for HIV-related testing under this chapter, ~~who may use~~
48 ~~the results to file charges of criminal transmission of~~
49 ~~HIV under chapter 709C.~~ Results of a test performed
50 under this subchapter shall not be disclosed to any

1 other person without the written informed consent of
2 the convicted or alleged offender. A person to whom
3 the results of a test have been disclosed under this
4 subchapter is subject to the confidentiality provisions
5 of section 141A.9, and shall not disclose the results
6 to another person except as authorized by section
7 141A.9, subsection 2, paragraph "i".

8 5. If testing is ordered under this subchapter,
9 the court shall also order periodic testing of the
10 convicted offender during the period of incarceration,
11 probation, or parole or of the alleged offender during
12 a period of six months following the initial test if
13 the physician or other practitioner who ordered the
14 initial test of the convicted or alleged offender
15 certifies that, based upon prevailing scientific
16 opinion regarding the maximum period during which the
17 results of an HIV-related test may be negative for a
18 person after being HIV-infected, additional testing is
19 necessary to determine whether the convicted or alleged
20 offender was HIV-infected at the time the sexual
21 assault or alleged sexual assault was perpetrated.
22 The results of the test conducted pursuant to this
23 subsection shall be released only to the physician or
24 other practitioner who orders the test of the convicted
25 or alleged offender, the convicted or alleged offender,
26 the victim counselor or person requested by the victim
27 to provide the counseling regarding the HIV-related
28 test and results who shall disclose the results to the
29 petitioner, the physician of the victim, if requested
30 by the victim, and the county attorney who may use
31 ~~the results as evidence in the prosecution of the~~
32 ~~sexual assault or in the prosecution of the offense of~~
33 ~~criminal transmission of HIV under chapter 709C filed~~
34 the petition for HIV-related testing under section
35 915.42.

36 Sec. 10. REPEAL. Chapter 709C, Code 2013, is
37 repealed.>

38 2. Title page, line 1, by striking <relating to the
39 intentional transmission of> and inserting <creating
40 criminal offenses relating to>>

NANCY J. BOETTGER